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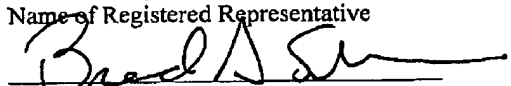
TO: Examiner James L. Swiger III, Group Art Unit 3775
COMPANY: U.S. Patent and Trademark OfficeFAX NUMBER: 571-273-8300
PHONE NUMBER:

FROM: Brad A. Schepers

DIRECT DIAL: (317) 238-6334
FAX NUMBER: (317) 636-1507

RE: Response to Notice of Non-Compliant Amendment for U.S. Patent Application No. 10/731,210 to B. Thomas Barker

COMMENTS: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:

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Client Matter No.: 334 MSDI-1005

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PTO/SB/21 (08-08)

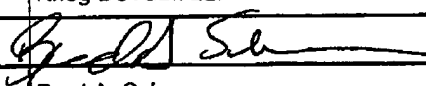
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| | | | |
|---|----------------------|------------------------|--------------------|
| TRANSMITTAL FORM (to be used for all correspondence after initial filing) | Application Number | 10/731,210 | |
| | Filing Date | December 9, 2003 | |
| | First Named Inventor | Barker et al. | |
| | Art Unit | 3775 | |
| | Examiner Name | James L. Swiger III | |
| Total Number of Pages In This Submission | 10 | Attorney Docket Number | MSDI-1005/PC398.08 |

| ENCLOSURES (Check all that apply) | | |
|--|--|--|
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to Notice of Non-Compliant Amendment; Return Receipt Postcard |
| Remarks | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | | | |
|--------------|---|----------|--------|
| Firm Name | Krieg DeVault LLP | | |
| Signature |  | | |
| Printed name | Brad A. Schepers | | |
| Date | February 27, 2009 | Reg. No. | 45,431 |

CERTIFICATE OF TRANSMISSION/MAILING

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| Signature |  | | |
| Typed or printed name | Brad A. Schepers | Date | February 27, 2009 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|-----------------------------------|---|---------------------------|
| In re patent application of: |) | Before the Examiner: |
| B. Thomas Barker et al. |) | James L. Swiger III |
| |) | |
| Application Serial No. 10/731,210 |) | Group Art Unit: 3775 |
| |) | |
| Filed: December 9, 2003 |) | Atty. Ref. No.: MSDI-1005 |
| |) | /PC398.08 |
| MULTI-AXIAL BONE |) | |
| SCREW ASSEMBLY |) | February 27, 2009 |

Via Facsimile Transmission: 571-273-8300**RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT UNDER 37 CFR 1.121**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action dated July 10, 2008 and the Notice of Non-Compliant Amendment dated February 20, 2009 (one month to respond), please enter and consider the following amendments and remarks. No extension fees are believed to be due with regard to the filing of this Response. However, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

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INTRODUCTORY COMMENTS

Claims 44-52, 54-58, 70-72 and 74-77 were pending in the subject application for the non-final Office Action dated July 10, 2008. The Applicant filed a Response to the non-final Office Action on October 10, 2008.

A Notice of Non-Compliant Amendment was mailed to the Applicant on February 20, 2009. The Applicant is submitting this Response to address the items set forth in the Notice of Non-Compliant Amendment. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.

Response to Non-Compliant Amendment
Application Serial No. 10/731,210
Inventors: Barker et al.
Filing Date: December 9, 2003

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